

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Third Periodic Review of the |) | MB Docket No. 07-91 |
| Commission's Rules and Policies |) | |
| Affecting the Conversion |) | |
| To Digital Television |) | |

To: Secretary, FCC

COMMENTS

State of Wisconsin – Educational Communications Board (“WECB”), by its attorneys, provides these comments in response to the *Notice of Proposed Rulemaking* in the referenced docket, FCC 07-70 (released May 18, 2007) (“*NPRM*”).

WECB applauds the FCC’s determination to have a strong DTV system in place across the country on the February 17, 2009 digital transition deadline. WECB fully supports that goal and expects that its public television stations will be in place with their digital facilities on their permanent DTV channels by the deadline. However, WECB urges the FCC to exercise its discretion under the law establishing the transition deadline to provide substantially more flexibility and accommodation to stations regarding the process and timing of achieving their “ultimate” or “final” DTV transmission facilities, and regarding what those facilities will be. WECB also urges the FCC in the case of one of its stations to allow WECB to apply for upgraded facilities as compared to what is specified in the DTV Table of

Allotments, so that those so facilities can be put into place by the transition deadline.

BACKGROUND

WECB is the licensee of five public television stations in Wisconsin – WHLA-TV/DT in La Crosse, WHRM-TV/DT in Wausau, WHWC-TV/DT in Menomonie, WLEF-TV/DT in Park Falls, and WPNE(TV)/DT in Green Bay. These are PBS member stations, and together with the University of Wisconsin System's Station WHA-TV/DT in Madison, comprise Wisconsin Public Television, which broadcasts a wide variety of high-quality news, public affairs, informational, educational and entertainment programming, including children's programming, throughout Wisconsin.

In the case of four of WECB's DTV stations – WHLA-DT on Channel *30, WHRM-DT on Channel *24, WHWC-DT on Channel *27 and WPNE-DT on Channel *42 – the pre-transition DTV channel is the same as the permanent DTV channel, and "full" authorized facilities have been constructed and licensed. With respect to these stations, WECB's only concerns are certain minor discrepancies in the FCC's DTV Table of Allotments, which need to be resolved or accommodated.

One of the four WECB DTV stations that have achieved "full" authorized facilities, WHLA-DT in La Crosse, is licensed for 307.5 kW ERP and 344.6 m HAAT.

The DTV Table of Allotments specifies 308 kW ERP (which WECB presumes is merely rounding of the actual power level) and 351 kW HAAT. WECB will investigate the source of this discrepancy, and can apply to correct the licensed HAAT if it is not correct, but if the current licensed HAAT is correct, the FCC will need to accommodate this change from the HAAT specified in the DTV Table. Certainly WECB does not anticipate any actual changes in the placement of the WHLA-DT antenna.

Another of the WECB DTV stations that have achieved “full” authorized facilities, WHRM-DT in Wausau, is licensed for 172 kW ERP and 387 m HAAT. The DTV Table of Allotments specifies 200 kW ERP and 387 m HAAT. Thus the facilities that are in place for WHRM-DT are operating at a lower ERP than specified in the Table. WECB can investigate whether these facilities are capable of increasing to operate at 200 kW ERP, but if not, again, the current facilities will have to be accommodated as the “final” facilities for this station. WECB is not in a position to reconstruct the station to obtain that additional 29 kW power. (Curiously, Exhibit D to the *NPRM* lists WHRM-DT as a station “believed ready to commence post-transition operations” without further facility changes. That is only true, however, if the FCC accommodates the reduced ERP, or permits stations to operate with lesser facilities than specified in the DTV Table.)

In the case of the fifth WECB DTV station – WLEF-DT in Park Falls – WECB will be modifying DTV operations to the station’s analog channel (Channel *36) at the end of the transition, (pre-transition DTV operations have been on

Channel *47). WECB does not anticipate difficulty in making that change, which will involve using the top-mounted antenna now in place for WLEF-TV, but it would like to be able to apply for a power increase prior to the changeover, so that it can construct WLEF-DT at what WECB hopes is its final and maximized facility at one time, rather than piecemeal. The DTV Table of Allotments specifies WLEF-DT to operate on Channel *36 at 50 kW and 445 m HAAT, while WECB believes that existing equipment and interference considerations would permit a power level of up to 200 kW.

COMMENTS

I. The FCC should be flexible in the process for and timing of construction of final DTV facilities.

WECB urges the FCC to exercise its discretion under the Digital Television and Public Safety Act of 2005, Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006), which established the February 17, 2009 digital transition deadline, by providing substantial flexibility to stations regarding the process for and timing of their achieving their “ultimate” or “final” DTV transmission facilities.

As the FCC can see from the description above, WECB has to move one of its stations to operate on its analog channel, and it is never possible to fully anticipate what issues might unexpectedly arise as part of that process. Certainly, there are issues of timing of the shutting down of WLEF-TV and the activation of WLEF-DT on the formerly analog channel. In addition, as noted, there are several

discrepancies between what WECB believes are the “full” DTV facilities already in place and the allotment parameters specified by the final DTV Table.

Thus, WECB urges the FCC to be as flexible as the law allows, focusing on identifying and addressing ways to facilitate a smooth transition in February of 2009, and facilitating each station’s own path and timing in achieving its final DTV facilities.

II. The FCC should not require stations to construct facilities that precisely match the facilities specified in the Table of DTV Allotments.

In paragraph 67 of the *NPRM*, the FCC suggests that stations will need to get construction permits for, and then construct and license DTV facilities that precisely match the facilities specified in the DTV Table of Allotments, all to be accomplished by the transition deadline at the latest.

As noted, two of WECB’s DTV stations exist with relatively small discrepancies as compared to the DTV Table, despite the fact that its DTV facilities were approved by the FCC in response to construction permit applications. WECB does not believe that the FCC can or should require every station’s permanent DTV facilities to match precisely those facilities specified in the DTV Table. In addition, WECB does not believe that, at this point, the FCC should specify a requirement that all stations apply for such facilities now, or a deadline for when they have to achieve them.

Noncommercial educational licensees such as WECB have accomplished much in the DTV transition process to date, in many cases overcoming considerable

financial and technical obstacles to be on the air at all. In the case of WECB, while perhaps some power increase is possible with existing facilities at WHRM-DT, there simply is no possibility for a general re-build of DTV facilities at WHLA-DT and WHRM-DT to match DTV Table parameters. The FCC must find some way of accommodating this reality.

III. The FCC should accommodate, as soon as possible, upgrades to existing DTV stations beyond those facilities specified in the DTV Table.

As noted above, WECB would also like to have an opportunity to maximize coverage of WLEF-DT at some point, and it believes that it should have an opportunity to evaluate its options and apply for authority to upgrade WLEF-DT coverage as possible. It simply makes no sense for WECB, as of the transition deadline, to build WLEF-DT facilities on Channel *36 with the DTV Table allotment power level, only to have to re-build those facilities later with greater power, if these facilities can be used initially without causing interference to any other station.

CONCLUSION

WECB urges the FCC to adopt flexible rules consistent with the comments above.

Respectfully submitted,

**STATE OF WISCONSIN –
EDUCATIONAL COMMUNICATIONS
BOARD**

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